

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

BYRON W. HARDAWAY,

3:10-CV-3107-ST

Petitioner,

ORDER

v.

MARK NOOTH,

Respondent.

BROWN, Judge.

Magistrate Judge Janice M. Stewart issued Findings and Recommendation (#30) on October 6, 2011, in which she recommended the Court deny Petitioner Byron W. Hardaway's Petition (#2) for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254, dismiss this matter with prejudice, and decline to issue a certificate of

appealability. Petitioner filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*); *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988).

In his Objections, Petitioner reiterates the arguments contained in his Petition for Writ of Habeas Corpus and Memorandum in Support of Petition. This Court has carefully considered Petitioner's Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Stewart's Findings and Recommendation (#30). Accordingly, the Court **DENIES** the Petition (#2) for Writ of Habeas Corpus, **DISMISSES** this matter **with**

prejudice, and **DENIES** a certificate of appealability

IT IS SO ORDERED.

DATED this 8th day of February, 2012.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge